

REAL ESTATE REGULATORY AUTHORITY, BIHAR
Before the Bench of Mr. Naveen Verma, Chairman

Case No. RERA/CC/288/2019

Nageshwar Singh Swaraj

.....Complainant

Vs

M/s Rukmani Buildtech Pvt. Ltd.

.....Respondent

Project: Chhatrapati Shivaji Greens

ORDER

15.9.2022

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19.9.2022

This matter was last heard on 26.8.2022. The Authority noted that the respondent has not been appearing before it. As the respondent had not appeared on the previous two consecutive hearings, this matter was fixed for ex-parte order.

The case of the complainant, who is a land owner allottee, had entered into a development agreement with the respondent on 26.7.2012. According to this agreement, the flats in the share of the land owner were to be handed over within four years i.e. 25.7.2016 failing which Rs.1,500/- per month per flat was to be paid. It has been alleged that the promoter has not paid this amount and has executed the Deed of Conveyance for 60 flats. The case has been filed for issuing direction to the respondent to pay an amount of Rs.46.50 lakh and for imposing penalty. It has also been mentioned that the respondent has filed case against the complainant.

A supplementary affidavit was filed by the complainant on 20.6.2019 stating that the promoter is issuing letters of possession without obtaining the mandatory occupancy certificate. He has also referred to a complaint filed by an allottee Sanjay Kumar for

possession which was then being heard in CC/08/2018. He further stated that to escape his liability the respondent had filed a writ petition (CWJC 1576 of 2018) in the Hon'ble Patna High Court after which a FIR was lodged against him but after investigation the allegations were found to be false. He has also filed a copy of the letter addressed to the respondent by the local Mukhiya . The complainant has further challenged the status report submitted by the respondent as well as the inspection report submitted by the team sent by the Authority.

In the supplementary petition, the complainant has requested that the entire bank ledger and transactions done from the money received from allottees may be obtained from the promoter, and that they may be directed to submit the occupancy certificate.

The complainant had filed a second supplementary affidavit on 31.1.2020 stating that he has offered a flat from his share to the widow of an army jawan (Pulwama attack) but he is unable to give her possession as the respondent has not completed the building. He has requested that the respondent may be directed to give a road map for completion.

The Bench notes that the promoter has not appeared despite specific notices having been issued and hence orders are being passed ex parte, on the basis of submissions made and documents on record.

On perusal of the records it is observed that the promoter had filed a detailed schedule of pending work, tower wise , along with the work done and photographs thereof, indicating the date by when the development work would be completed and amount due from the allottees. Most of the towers were to be completed in 2021 as per this

schedule. A status report along with photographs , as on 3 February, 2020 filed in the complaint case CC/08/2018 is also available on record.

The Authority observes that the complainant has challenged the status report submitted by the promoter, and no rejoinder has been filed. In any case, the period indicated in the schedule has lapsed. Since the promoter is not appearing, the claim of the complainant that the work has not been completed is admitted.

The web page of the project as uploaded on the website of RERA, Bihar has been checked. The promoter has not filed the quarterly report indicating the status and progress made, as mandated in Section 11 (1) of the Real Estate (Regulation and Development) Act, 2016. A show cause may be issued to the promoter as to why a penalty of Rs 1 lakhs be not imposed on them for this lapse.

The learned counsel for the complainant has submitted that the registration of the project has lapsed. The records also indicate that. It is for the promoter to establish that they have applied for extension. Since they have failed to appear and present their case, the Authority accepts the contention that the registration of the project has lapsed. The complainant is at liberty to form an association along with other allottees, and to move the Authority afresh for permission to complete the remaining development works as provided in Section 8 of the RERA Act, 2016.

The matter of handing over possession can be decided only after a decision is taken on this issue and the work is completed. Meanwhile the promoter would pay interest for the period delay in completion of the flat and handing over of possession The claims in

the original complaint petition are in the nature of compensation. The complainant is at liberty to approach the Adjudicating Officer for these claims.

The Authority accepts the contention of the complainant to examine the trail of money received in the project and directs that a forensic audit may be conducted to establish whether the amount has been diverted. Secretary RERA is requested to get the forensic audit done, the cost of which would be recovered from the promoter/project.

With these observations and directions, the matter is disposed of.

Sd/-

Naveen Verma
Chairman